

**OPERATING AGREEMENT
FOR THE NEGOTIATION TEAM
SULLIVAN CREEK PROJECT
(the "Agreement")
12/5/2008**

PURPOSE

- To facilitate a common understanding of the issues related to the surrender of the Federal Energy Regulatory Commission (FERC) license for the Sullivan Creek Hydroelectric Project (the Project).
- To define the various approaches to these issues by exploring the advantages and disadvantages of each approach.
- To arrive, if possible, at a consensus.
- To develop a comprehensive settlement agreement or surrender proposal for submittal to FERC that resolves issues involving the project identified by stakeholders participating in the FERC surrender proceeding, including issues raised by any associated regulatory authorities to the extent consistent with such authorities.
- For the Public Utility District, the Licensee of the project to consult with the relevant agencies, Tribes and the public as required by 18 CFR 16.8.
- To involve other stakeholders in the settlement and surrender process.
- To develop an effective structure that protects the integrity of the process.

ROLES

Team Members:

The team members will

- Engage in a thoughtful, thorough deliberation
- Advocate for the interests of his/her agency, Tribe or non-governmental interest group
- Share relevant information with other team members
- Keep constituencies informed and advocate within the constituent organizations for support of the team's work
- Bring up for discussion significant concerns from their interest group or organization at the earliest point in the process
- Work to identify promising options
- Openly discuss and evaluate options
- Secure approval within the organization for permission (within appropriate limits) to negotiate an agreement
- Elevate issues within each team members agency, Tribe or non-governmental organization as a way of addressing the limitation. Refrain from taking actions outside the negotiating process that might undermine group recommendations and reports. Discussions that may occur within the Boundary relicensing proceeding that may address Sullivan Creek shall not be seen as undermining discussions at the Sullivan Creek Negotiations table
- Maintain confidentiality as established by the members of the negotiation team
- Strive to reach consensus on decisions about the process

- Participate in good faith

TEAM MEMBERSHIP

The negotiation team (the “team”) will include:

Bob Geddes, Mark Cauchy- Public Utility District No. 1 of Pend Oreille County*

Rodney Smoldon, Kristen Bonanno, Glenn Koehn - USDA Forest Service*

Doug Robison – Washington Department of Fish and Wildlife*

Grant Pfeifer, Brian Farmer – Washington Department of Ecology*

Rick Donaldson, Dan Trochta – U.S. Fish and Wildlife Service*

Barbara Greene, John Armstrong – Seattle City Light

Deane Osterman – Kalispel Tribe of Indians

Kevin Colburn – American Whitewater

Jerry Boggs – Selkirk Conservation Alliance

Mike Petersen and Steve Llewellyn – The Lands Council

Rick Larson, Roly Weinhandl, Kelly Curtiss, Al Six, Bob Briggs, James Daw, Robert Spencer, Marcia Spencer, John Hankey – county resident interests

Note: (*) is attached to names of team members who are core decision-making parties (the “core parties”)

It is understood that team members are representing interests of their agency, organization(s), and/or constituents as identified on the signature page. All team members shall have authority to negotiate on behalf of their agency or organization. As such, ultimate decision-making authority may reside with an individual not at the table. To ensure adequate briefing, support and buy-in for team decisions, members agree to keep their respective decision-makers fully informed at regular intervals during the process and as tentative agreements are reached.

Additional Participation

Additional individuals may participate in the team meetings subject to a) consensus approval of the team and b) acceptance of these operating principles and the agreements made as of the time the party joins the negotiations.

Scientific and technical input regarding team negotiations or products will be provided on an “as-needed” basis by team members’ staff, consultants or other designated entities as agreed upon by the team. Team members may seek individual scientific and technical advice from their respective staff or contractors. To the extent a team member is relying on the expertise of scientific or

technical staff, every effort will be made to make that scientific or technical staff available for discussion with other members of the team if requested or needed. Other guests may be invited at the discretion of the Team. All presenters shall provide their data to the Team in advance of the meetings they attend.

ATTENDANCE AT MEETINGS

It is expected that each team member and/or his/her designated alternate will make a good faith effort to attend each full meeting. If a team member cannot attend, he or she may designate an alternate to attend. It is the responsibility of the member and alternate to stay fully briefed on all team meeting discussions and deliberations. If necessary, a member and/or alternate may join the meeting by telephone. If phones are needed, the mediator and the meeting host will make best efforts to ensure that the phone system will be adequate to allow the members phoning in to clearly follow the meeting.

MEDIATOR

The team agrees that Cherie Shanteau-Wheeler, Senior Mediator/Senior Program Manager from the U.S. Institute for Environmental Conflict Resolution (the mediator), is an appropriate mediator for this process. In consultation with the team and upon the approval of the PUD and USDA Forest Service, the mediator may be replaced by another mediator, or the mediator role may be eliminated.

The mediator will help the stakeholders design work session agendas, provide advance notice of times and location of meetings and draft agendas, develop the meeting schedules based on people's availability, facilitate the meetings, distribute meeting materials, prepare action item lists and brief summaries of team "agreements in principle," work to resolve any impasse that may arise, and other tasks as requested.

The mediator will remain impartial—not favoring any particular outcome. The mediator is responsible to the whole group and not to one member or interest.

PUBLIC INFORMATION

The team will regularly inform the public of the status and timetable for its activities as described in Addendum A. This communication process will include a website. In addition, the team will prepare regular jointly-drafted press releases to provide consistent information to interested members of the press. The team may schedule additional public involvement as agreed upon. The mediator will assist the team in scheduling and conducting press briefings and public involvement events.

DECISION MAKING AND DELIBERATION

The negotiation team's highest deliberative goal is consensus. For purposes of this Agreement, "consensus" shall mean: a general agreement between negotiation team members which has been

collaboratively developed and is based upon serious consideration of every team member's considered opinion. A consensus agreement is one that all team members can live with, built by identifying and exploring all parties' interests and by developing an outcome that satisfies these interests to the greatest extent possible. To enhance creativity during meetings, individuals are not expected to restrict themselves to the prior positions held by their organizations, agencies or constituencies. The goal of the meetings is to have frank and open discussion of the topics in question and the options to address the topics. Therefore, ideas raised in the process of the dialogue, prior to agreement by the whole team, are for discussion purposes only and should not be construed to reflect the position of a member or to prematurely commit the team.

Those absent from the meeting will be asked to provide written comments (by email or fax) within one week of a decision being conveyed to the absent members.

If consensus of all of the negotiation team members is not possible, the remaining team members will continue to negotiate a consensus agreement as described in this Agreement. In this instance, the core party representatives, as noted above (*), are expected to participate in the final consensus-building effort as indicated in the schedule described in the Project Timeline.

Should the PUD or any agency, Tribe, non-governmental organization wish to withdraw from the process, they will provide a written explanation to the team. Good Faith and Confidentiality (see provisions below) (excluding those regarding appropriate negotiating forums) shall continue to apply to members who withdraw. The remaining team members will determine how to proceed in light of the withdrawal.

Team members agree to use this venue to attempt to resolve all issues that must be resolved in order to provide for the surrender of the license for the Sullivan Creek Hydroelectric Project. Therefore, they are expected to negotiate the substantive issues only with designated representatives and shall not contact the internal teams, staff, supervisors, or decision makers of other members in order to influence the representative's participation, or to reach agreements that may place other team members at a disadvantage.

Team members may contact staff of another team member's organization when agreed to by the designated representative of the other member. If a member is not authorized by the team member to contact other staff, yet still believes that speaking with someone other than a team member will assist in resolving a particular issue, then the following steps will be implemented:

1. Have an open discussion of the matter with the team member;
2. If either of the involved parties request, have an open discussion with the team (by conference call or formal meeting) to allow for resolution of the matter within the team; and,
3. If resolution is not achieved, the member will notify the representative of the intended communication to internal teams, staff, or supervisors of other member's organization at least two working days prior to the communication.

COMMUNICATIONS WITH OTHER GROUPS, INDIVIDUALS AND THE MEDIA

Acting in Good Faith

Team members agree to act in good faith in conjunction with the negotiations relating to the project and wish to maintain an environment that promotes open, frank and constructive discussion. Each team member commits to avoid actions that would damage that trust.

To the extent allowed by law, the team and the mediator agree to the following information disclosure provisions:

- All negotiations and work products of the team shall be considered to be confidential.
- The content of these negotiations, including negotiation discussions and work products, shall not be divulged to outside organizations or individuals at any point during or after the negotiations without express written agreement of the team. In the event that a team member receives a request for release of confidential documents pursuant to applicable freedom of information or open records laws, that team member shall immediately inform the team of the request, inform the team of its proposed response to the request and, if required or warranted under applicable law, may release such requested documents.
- Each team member and the mediator shall be responsible for ensuring that their respective organization(s), agency, consultants, or employees abide by these information disclosure provisions.
- In no event will the mediator voluntarily testify in regard to any issues considered by the team.
- Each document prepared as part of these negotiations shall be labeled "Confidential and Privileged" except for final, executed documents submitted to FERC for approval.
- The information disclosure provisions shall be effective as of the indicated adoption date.

Caucuses

The team agrees that individual caucuses between members on the team are a necessary and acceptable form of communications in conjunction with negotiations relating to the project.

Press Releases

The mediator will assist the group in scheduling and conducting press briefings and public involvement events. The team will also work to keep elected officials who are not part of the team informed of the progress of the problem-solving process, which could include periodic electronic updates.

DISCUSSION GUIDELINES

The following guidelines encourage productive deliberation. Team members will commit to best efforts at following them and will give the mediator the authority to enforce them:

Openness

To other points of view

To outcomes

To all representatives

Listening

Focus on each speaker rather than prepare your response

No interruptions

Fairness

Speak briefly

Everyone participates

Respect

Disagree without being disagreeable

No personal attacks

Commitment

Prepare for each session

Attend each session and follow through on commitments

Honor the agenda and make agenda changes with the whole group

Begin and end on time

Get up to speed if didn't attend

All team members agree to act in good faith in all aspects of the group deliberations, to conduct themselves in a manner that promotes joint problem solving and collaboration, and to consider the input and viewpoint of other participants. Members agree not to use specific offers, positions, or statements made by another member during non-public discussion for any other purpose not previously agreed to in writing by the members involved. Personal attacks will not be tolerated. Negative generalizations are not productive and have the potential to impede the ability of the group to reach consensus.

Team members and other participants are requested to turn off or put in non-ring mode cell phones, blackberries and pagers during formal meeting session.

SUBCOMMITTEES / WORKING GROUPS

It may be necessary for the groups to establish subcommittees or working groups to explore topics, development proposals, resolve differences, explore resources, etc. The mediator will assist the

subcommittees or working groups in the development of agendas and guide the decision-making processes unless otherwise agreed to by the team and the mediator. Meetings in support of the process (whether a meeting among a subset of agencies or a meeting of advocates with a shared perspective, including caucuses) are expected and are encouraged so long as they do not preempt the team's deliberations. At the direction of the team members, sub-group members may develop draft products and make recommendations to the team.

RELATIONSHIP TO FERC PROCESS

All team members may make filings and other related actions pursuant to FERC's regulations during the pendency of team discussions and to include in such filings such arguments, proposals, or evidence as each member deems appropriate to maintain and preserve any legal rights it may have before FERC in the event that the discussions of the team are not successful. No team member may purport to represent the views of the team to FERC without the express approval of the team.

The Mediator will maintain a team file and index that may eventually be filed with FERC. If the team enters into a settlement agreement, the Mediator will work with the team to file copies of certain documents developed by the team with FERC as part of the administrative record of the proceeding.

DRAFT SCHEDULE AND MILESTONES

As part of this process, all team members recognize that they are part of a decision-making process and not a study or data collection effort. In keeping with this perspective, all agree to use existing information wherever possible, to streamline necessary data collection efforts, to allocate resources carefully and to work diligently to make the following schedule possible:


Negotiation Team Problem Solving Process

Activity	Dates
Organizational Meeting <ul style="list-style-type: none"> • Affirm purpose, process, participation, etc. • Meeting schedule 	October 23, 2008
Public Meeting <ul style="list-style-type: none"> • Discuss process, parameters, etc. • Make offer to participate. 	November 13, 2008
Team Meeting #1 <ul style="list-style-type: none"> • Begin information gathering activities • Clarify mandates and interests • Begin determining necessary study reports and updates • Focus on joint interests and clarify existing agreements • Refine schedule of proposed steps 	December 4-5, 2008
Team Meeting #2 Public Update activity #1 (Press release?) +update study reports	January 7-8, 2009
Team Meeting #3 +update study reports and obtain additional resources	February 4 -5, 2009
Team Meeting #5 Public Update Activity #2 (status meeting?) +continue further resource activities	March 4-5 2009
Team Meeting #6 +continue further resource activities	April 1-2, 2009
Team Meeting #7 +Public Update activity #3 (Press Release?)	May 6-7, 2009

+continue further resource activities	
Team Meeting #8 <ul style="list-style-type: none"> • creating options 	June 3-4, 2009
Meeting #__ <ul style="list-style-type: none"> • evaluating options • building on most viable options +Public Update activity #4 (Open House? Press Release + etc.?)	_____2009?
Meetings #__ <ul style="list-style-type: none"> • Consensus Building re: most viable options • Establish working group & develop agreements 	_____2009?
Meeting #__ <ul style="list-style-type: none"> • Discuss and develop methodology and timetable for Implementation Issues • Finalize Settlement Agreement + Public update activity	_____2009? _____2009?

Signature Page

Bob Geddes
Pend Oreille PUD No. 1



Mark Cauchy
Pend Oreille PUD No. 1

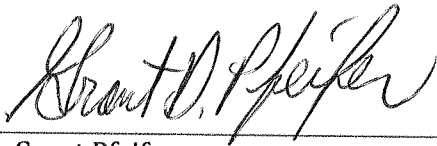
Deane Osterman
Kalispel Tribe of Indians

Rodney Smoldon
U.S.D.A. Forest Service

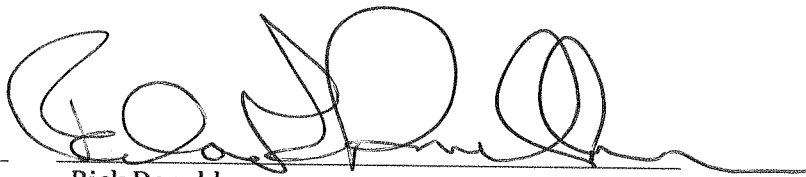

Kristen Bonanno
U.S.D.A. Forest Service

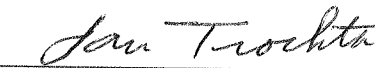

Glenn Koehn
U.S.D.A. Forest Service



Doug Robinson
Washington Department of Fish and Wildlife



Grant Pfeifer
Washington Department of Ecology

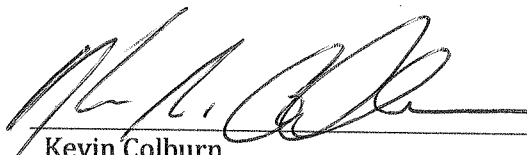
Brian Farmer
Washington Department of Ecology


Rick Donaldson
U.S. Fish and Wildlife Service


Dan Trochta
U.S. Fish and Wildlife Service

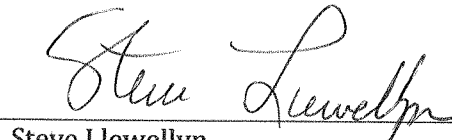

Barbara Greene
Seattle City Light

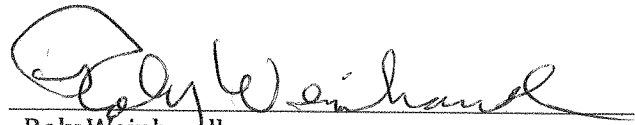

John Armstrong
Seattle City Light

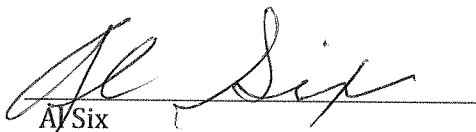

Kevin Colburn
American Whitewater

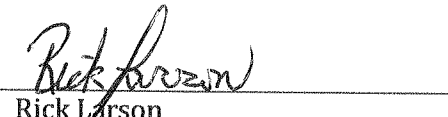

Jerry Boggs
Selkirk Conservation Alliance



Mike Petersen
The Lands Council

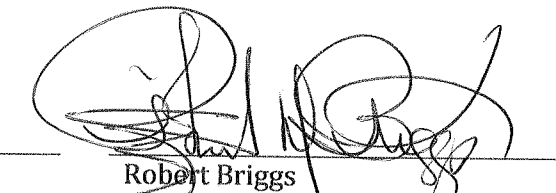

Steve Llewellyn
The Lands Council



Roly Weinhandl
Public Stakeholder Representative



Al Six
Public Stakeholder Representative


Rick Larson
Public Stakeholder Representative

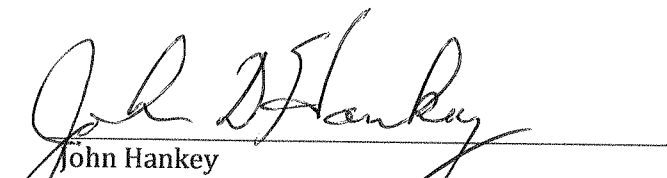

Kelly Curtiss
Public Stakeholder Representative

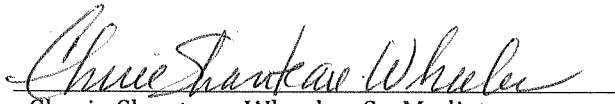

Robert Briggs
Public Stakeholder Representative


James Daw
Public Stakeholder Representative


Robert Spencer
Public Stakeholder Representative


Marcia Spencer
Public Stakeholder Representative


John Hankey
Public Stakeholder Representative



Cherie Shanteau-Wheeler, Sr. Mediator
U.S. Institute for Environmental Conflict
Resolution



Gail Brooks
U.S. Institute for Environmental Conflict
Resolution

ADDENDUM A

Sullivan Creek Project Public Communication Plan

The Sullivan Creek Negotiation Team (Team), along with the U.S. Institute, have developed this Communication Plan to inform members of the public with interest in the project regarding the process and the outcome of negotiations on the FERC License Surrender for the Sullivan Creek Project.

The elements of the Communication Plan were developed through discussion with the public at a meeting held on November 13, 2008 at the Selkirk High School in which the interested public was asked how they would like to receive communication from the Team.

Communication Plan Elements:

The Team will work with the U.S. Institute to communicate with the interested public during the negotiation process in the various ways described below:

- ☞ **Information:** This will include the following elements:
 - E-mail and regular mail correspondence
 - Maintenance of project websites:
 - Newsletters and reports to the public when the Team has tangible information to report, as requested at the public meeting on November 13th, 2008. Public meetings will be coordinated with the timing of Team updates.
 - Printed materials such as descriptive fact sheets and meeting announcement flyers.
- ☞ **Public information meetings.** The Team will schedule public information meetings as necessary to report tangible information during the negotiation process.
- ☞ **Describing the process to others:** Team members are encouraged to share accurate and objective information about the process with their constituents through existing communication networks of alliances and affiliations, and through informal meetings, "coffee klatches", and other organization or agency-specific means.
- ☞ **Observers may attend meetings; however, they shall:**
 - Sign an observer's confidentiality agreement
 - Provide notice to the Team's coordinator, Gail Brooks, that they would like to attend a Team meeting and receive approval from the Team to attend.
 - An observer comment period (limited to 5 minutes) shall be provided at the beginning of Team meetings where observers are present

☞ **Press:**

- At the end of Team meetings, the Team may prepare talking points or a press release as appropriate
- Press questions will be referred to the mediator; however, individuals are free to discuss their own interests and facts with the press and refer the press to the appropriate resources including the project websites